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March 16, 2025

VIA ECF

Hon. Claire C. Cecchi, U.S.D.J.
United States District Court, District of New Jersey
Martin Luther King Bldg. & U.S. Courthouse
50 Walnut Street
Newark, NJ 07102

Hon. Dennis M. Cavanaugh, U.S.D.J. (Ret.)
McElroy, Deutsch, Mulvaney & Carpenter, LLP
1300 Mount Kemble Avenue
Morristown, NJ 07962

Re: *LifeScan, Inc. v. Jeff Smith, et al.*
Docket No. 17-cv-5552 (CCC) (JSA)

Roche Diagnostics Corp., et al. v. Smith, et al.
Docket No. 19-cv-8761 (CCC) (JSA)

Dear Judge Cecchi and Judge Cavanaugh:

This firm represents Defendant/Third-Party Plaintiff, Zions Bancorporation, N.A. ("Zions") in the above-captioned matters. Zions is in receipt of Special Master Judge Cavanaugh's Reports and Recommendations as to Third-Party Defendants PBMs' and JJHCS's Motions to Dismiss Zions' Third-Party Complaints.¹ For the convenience of the Court and Special Master, please accept this letter summarizing Zions' review and understanding of the pending motions in these matters:²

Motions before Special Master Judge Cavanaugh

1. LifeScan's Motion to Dismiss Zions' Counterclaims, filed on February 9, 2023. *LifeScan* Dkt. No. 682.

¹ The PBM Defendants and Zions jointly requested an extension of time until April 2 to submit objections to the Report & Recommendation of Special Master Judge Cavanaugh as to the PBM Defendants' Motions to Dismiss. *LifeScan* Dkt. No. 915; *Roche* Dkt. No. 668. Zions also requested an extension of time until April 2 to submit objections to the Report and Recommendation of the Special Master as to JJHCS's Motion to Dismiss. *LifeScan* Dkt. No. 916.

² In light of the parties' more recent practice to email discovery motions to the Special Master rather than file on the docket, we apologize if any outstanding motions were missed.

The Hon. Claire C. Cecchi, U.S.D.J.
The Hon. Dennis M. Cavanaugh, U.S.D.J. (Ret.)
March 16, 2025
Page 2

2. Roche's Motion to Dismiss Zions' Counterclaims, filed on February 9, 2023. *Roche* Dkt. No. 457.
3. Zions' Motion to Compel rebate discovery from the PBMs, submitted January 26, 2024.
4. Zions' Motion to Compel PBM Requests for Admission Responses, submitted September 4, 2024.³
5. Investor Defendants' Motion for Sanctions against LifeScan based on LifeScan's spoliation of evidence, submitted January 21, 2025; Zions joined on January 29, 2025.⁴

Motions before the Court⁵

1. Zions' Appeal of the Magistrate Judge's Order Denying Zions' Motion to Impose Conditions on Plaintiff Johnson & Johnson Healthcare Systems Inc.'s Notice of Dismissal Pursuant to Rule 41, filed July 16, 2019. *LifeScan* Dkt. No. 263.
2. Mercato's Objection to the Special Master's September 27, 2023 Order, filed on October 11, 2023. *LifeScan* Dkt. No. 802.
3. Medsource Entities' Objection to the Special Master's January 17, 2024 Order, filed on January 31, 2024. *LifeScan* Dkt. No. 833; *Roche* Dkt. No. 585.
4. Medsource Entities' Objection to the Special Master's February 15, 2024 Report & Recommendation, filed on February 29, 2024. *LifeScan* Dkt. No. 845; *Roche* Dkt. No. 598.
5. Zions' Motion to Join the Third-Party Defendant PBMs as First-Party Defendants, filed on May 31, 2024. *LifeScan* Dkt. No. 861; *Roche* Dkt. No. 613.
6. Mercato's Objection to the Special Master's December 18, 2023 & May 21, 2024 Orders, filed on June 4, 2024. *LifeScan* Dkt. No. 863; *Roche* Dkt. No. 615.

³ By way of the Special Master conference agenda letter submitted to Judge Cavanaugh on September 5, 2024, the PBMs requested a ruling from the Special Master that Zions' motion was untimely before requiring the PBMs to file an opposition to the motion. Zions objected and requested a briefing schedule. However, in light of Judge Cecchi's Text Order dated September 5, 2024, at the September 10, 2024 Special Master Conference, Zions agreed to hold the motion in abeyance pending mediation, as the Court ruled with respect to other outstanding motions. Presuming the PBMs intend to respond, this motion is not yet fully briefed.

⁴ Plaintiff LifeScan and the Investor Defendants submitted and/or filed letters on February 4, 2025 and February 6, 2025, respectively, regarding whether this motion should be heard by the Special Master or the Court. See *LifeScan* Dkt. No. 905. This motion is not yet fully briefed.

⁵ Aside from *LifeScan* Dkt. No. 263, the remainder of the pending motions before the Court were administratively terminated on September 5, 2024, pending the outcome of mediation. See *LifeScan* Dkt. No. 895; *Roche* Dkt. No. 647. Pursuant to the Court's text order, those motions were deemed reinstated after mediation failed to resolve these matters. See *id.*

The Hon. Claire C. Cecchi, U.S.D.J.
The Hon. Dennis M. Cavanaugh, U.S.D.J. (Ret.)
March 16, 2025
Page 3

We are available to discuss any issues related to this matter at Your Honors' convenience.

Respectfully submitted,

s/Liza M. Walsh

Liza M. Walsh

CC: All Counsel of Record (via ECF)